THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9278 OF 2006

DATED 13.09.2006

BETWEEN

U.Mallikarjun Reddy

… Petitioner

and

The Managing Director, Andhra Pradesh Power Generation Corporation Limited, Vidyuth Soudha, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner is a driver. By letter, dated 07.05.2005, the Divisional Engineer, A&C Division, Srisailam Dam West engaged the petitioner's vehicle i.e., Zeep, for a period of twelve months from 01.04.2005 to 31.03.2006. Even while the said contract was in force, the first respondent issued Memo dated 21.03.2006 according approval to engage six vehicles including mini bus for shift duties to Scheduled Tribe candidate/Societies as sponsored by Project Officer, Integrated Tribal Development Agency (ITDA) on nomination basis for a period of one year commencing from 01.04.2006. The petitioner and four others challenged the same before this Court in W.P.No.6432 of 2006 *inter alia* on the ground that the reservation made in favour of S.T.Candidates is in excess of 50%. By order, dated 04.06.2006 passed in W.P.M.P.No.8186 of 2006, this Court suspended the Memo, dated 21.03.2006 issued by the first respondent on the ground that the said Memo tantamounts to reservation in excess of 50%. Thereafter, the first respondent issued Memo, dated 20.04.2006, which reads as under.

> In view of the Judgment delivered by Hon'ble High Court on 4-4-2006 in W.P.M.P.No.8186 of 2006 in W.P.No.6432/2006, the proposal of Chief Engineer/O&M/Srisailam vide Letter 1st cited at the instance of request of PO/ITDA/Srisailam vide reference 2nd cited with reference to award of work of supply of 6 vehicles including Mini Bus for shift duties to S.T.Candidates, is re-examined.
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> After careful consideration, it has been decided by

> APGENCO to engage only 4 vehicles including minibus for shift duties out of 8 vehicles on Hire basis from S.T.Candidates/Societies as sponsored by P.O-I.T.D.A. on nomination basis for a period of one year. The other terms and conditions prescribed in the Memo issued by CGM(HR)/AS(Genl)/P.O.S./517/2006, dated 21-3-2006 remain unaltered.2006.
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> The Chief Engineer/O&M/Srisailam (Left Bank) is requested to take necessary action as per revised orders issued hereunder and send compliance.

This writ petition is filed assailing the above Memo. Learned standing counsel submits that the when the question of reservation in favour of STs is pending adjudication in the writ petition filed by the petitioner earlier, it is not proper in the first respondent to have allotted four vehicles in favour of ST candidates. Secondly, he would urge that when four vehicles are to be hired from ST candidates sponsored by ITDA, the respondents are bound to call for tenders for engaging services of drivers/vehicles in respect of such four vehicles.

There cannot be any dispute that when the Government distributes largess keeping in view the welfare of SCs/STs, the rule that such action should be taken following the tendering process can be relaxed (see **Shri Sachidanand Pandey v State of West Bengal**[1]). This Court does not find any infirmity insofar as the first respondent deciding to engage four vehicles for shift duties on hire basis from ST candidates/Society sponsored by ITDA. Insofar other submission is concerned, unless and until the first respondent decides the need for engaging another four vehicles for shift duties, no Mandamus can be issued to compel the respondents to issue tender notice. The petitioner has no such right to compel the public authority to allot work to him after inviting tenders.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

13.09.2006
pln

[1] AIR 1987 SC 1109